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09/815,856	03/23/2001	John Zimmerman	US 010094	5812

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EXAMINER

SHANNON, MICHAEL R

ART UNIT	PAPER NUMBER
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2614

DATE MAILED: 01/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/815,856

Applicant(s)

ZIMMERMAN, JOHN

Examiner

Michael R Shannon

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 March 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 March 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 20020923.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1, 2, 8, 15, and 16 are rejected under 35 U.S.C. 102(e) as being anticipated by Vamparys (WO 01/15449 A1).

Regarding claim 1, the claimed method for making a recommendation in a lifestyle recommendation machine, is met as follows:

- The claimed step of generating a user profile based on explicit and/or implicit directions of a user is met by claim 1(c) [Page 21], which declares “means for collecting explicit and/or implicit information in program metadata from user interaction therewith”.
- The claimed step of making a recommendation for an item, service, and/or event based on the user profile is met by claim 1(g) [Page 21], which declares “means for transmitting a list of program recommendations for users to user terminals for display”
- The claimed step of reporting the recommendation to the user through an agent is met by claim 4 [Page 22], which declares that “the means for

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transmitting a list of program recommendations for users to user terminals
are compromised in a user agent system”

Regarding claim 2, the claimed recommendation being a recommendation of television programming is met by the discussion of a program being defined as a television program [Page 1, lines 5-7].

Regarding claim 8, the claimed lifestyle recommendation device is met as follows:

- The claimed means for generating a user profile based on explicit and/or implicit directions of a user is met by claim 1(c) [Page 21], which declares “means for collecting explicit and/or implicit information in program metadata from user interaction therewith”.
- The claimed means for making a recommendation for an item, service, and/or event based on the user profile is met by claim 1(g) [Page 21], which declares “means for transmitting a list of program recommendations for users to user terminals for display”
- The claimed reporting means for reporting the recommendation to the user through an agent is met by claim 4 [Page 22], which declares that “the means for transmitting a list of program recommendations for users to user terminals are compromised in a user agent system”

Regarding claim 15, the claimed program storage device readable by machine, tangibly embodying a program of instructions executable by the machine to perform

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method steps for making a recommendation in a lifestyle recommendation machine, is met as follows:

- The claimed step of generating a user profile based on explicit and/or implicit directions of a user is met by claim 1(c) [Page 21], which declares “means for collecting explicit and/or implicit information in program metadata from user interaction therewith”.
- The claimed step of making a recommendation for an item, service, and/or event based on the user profile is met by claim 1(g) [Page 21], which declares “means for transmitting a list of program recommendations for users to user terminals for display”
- The claimed step of reporting the recommendation to the user through an agent is met by claim 4 [Page 22], which declares that “the means for transmitting a list of program recommendations for users to user terminals are compromised in a user agent system”

Regarding claim 16, the claimed computer program product embodied in a computer-readable medium for making a recommendation in a lifestyle recommendation machine, is met as follows:

- The claimed computer readable program code means for generating a user profile based on explicit and/or implicit directions of a user is met by claim 1(c) [Page 21], which declares “means for collecting explicit and/or implicit information in program metadata from user interaction therewith”.

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- The claimed computer readable program code means for making a recommendation for an item, service, and/or event based on the user profile is met by claim 1(g) [Page 21], which declares “means for transmitting a list of program recommendations for users to user terminals for display”
- The claimed computer readable program code means for reporting the recommendation to the user through an agent is met by claim 4 [Page 22], which declares that “the means for transmitting a list of program recommendations for users to user terminals are compromised in a user agent system”

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 4-7, 9, and 11-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vamparys (WO 01/15449 A1), cited by examiner, in view of Finseth (US 6,665,870), cited by examiner.

Regarding claim 4, Vamparys teaches all of that which is discussed above with regards to claim 1. Vamparys does not teach that the reporting step comprises displaying a video of the agent and playing accompanying audio, which announces the

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recommendation. Finseth teaches an EPG that announces "Operator A's TV Picks" [Fig. 7]. Through the use of short text and still images or video and audio presentations 128D, Operator A's TV Picks/Recommendations are presented to the user [col. 16, lines 51-54]. It would have been obvious to one of ordinary skill in the art at the time of the invention to utilize the video of the agent and playing of accompanying audio in order to announce the recommendation, in order to make the recommendation more easily viewable and understandable by the user.

Regarding claim 5, Vamparys teaches all of that which is discussed above with regards to claim 1. Vamparys does not teach that the reporting step comprises a still image of the agent. Finseth teaches an EPG that announces "Operator A's TV Picks" [Fig. 7]. Through the use of short text and still images or video and audio presentations 128D, Operator A's TV Picks/Recommendations are presented to the user [col. 16, lines 51-54]. It would have been obvious to one of ordinary skill in the art at the time of the invention to show a still image of the agent and its recommendations, in order to make the recommendation more easily viewable and understandable by the user.

Regarding claim 6, Vamparys and Finseth teach all of that which is discussed above with regards to claim 5. Vamparys does not teach that the reporting step comprises displaying a textual message that announces the recommendation. Finseth teaches an EPG that announces "Operator A's TV Picks" [Fig. 7]. Through the use of short text and still images or video and audio presentations 128D, Operator A's TV Picks/Recommendations are presented to the user [col. 16, lines 51-54]. It would have been obvious to one of ordinary skill in the art at the time of the invention to show a brief

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textual description of the agent's recommendations, in order to make the recommendation more easily viewable and understandable by the user.

Regarding claim 7, Vamparys and Finseth teach all of that which is discussed above with regards to claim 5. Vamparys does not teach that the reporting step comprises playing accompanying audio, which announces the recommendation. Finseth teaches an EPG that announces "Operator A's TV Picks" [Fig. 7]. Through the use of short text and still images or video and audio presentations 128D, Operator A's TV Picks/Recommendations are presented to the user [col. 16, lines 51-54]. It would have been obvious to one of ordinary skill in the art at the time of the invention to present an audio description of the agent's recommendations, in order to make the recommendation more easily viewable and understandable by the user.

Regarding claim 9, Vamparys teaches all of that which is discussed above with regards to claim 8. Vamparys does not teach that the lifestyle recommendation device can be a television programming storage device. Finseth discloses that the "device may include a storage device operatively coupled to the converter and which is adapted to record television content" [col. 2, lines 65-67]. It would have been obvious to one of ordinary skill in the art at the time of the invention to include a storage device into the system, in order to make recording and later viewing easier and more accessible to the user.

Regarding claim 11, Vamparys teaches all of that which is discussed above with regards to claim 8. Vamparys does not teach that the reporting means comprises displaying a video of the agent and playing accompanying audio, which announces the

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recommendation. Finseth teaches an EPG that announces "Operator A's TV Picks" [Fig. 7]. Through the use of short text and still images or video and audio presentations 128D, Operator A's TV Picks/Recommendations are presented to the user [col. 16, lines 51-54]. It would have been obvious to one of ordinary skill in the art at the time of the invention to utilize the video of the agent and playing of accompanying audio in order to announce the recommendation, in order to make the recommendation more easily viewable and understandable by the user.

Regarding claim 12, Vamparys teaches all of that which is discussed above with regards to claim 8. Vamparys does not teach that the reporting means comprises a still image of the agent. Finseth teaches an EPG that announces "Operator A's TV Picks" [Fig. 7]. Through the use of short text and still images or video and audio presentations 128D, Operator A's TV Picks/Recommendations are presented to the user [col. 16, lines 51-54]. It would have been obvious to one of ordinary skill in the art at the time of the invention to show a still image of the agent and its recommendations, in order to make the recommendation more easily viewable and understandable by the user.

Regarding claim 13, Vamparys and Finseth teach all of that which is discussed above with regards to claim 12. Vamparys does not teach that the reporting means comprises means for displaying a textual message that announces the recommendation. Finseth teaches an EPG that announces "Operator A's TV Picks" [Fig. 7]. Through the use of short text and still images or video and audio presentations 128D, Operator A's TV Picks/Recommendations are presented to the user [col. 16, lines 51-54]. It would have been obvious to one of ordinary skill in the art at the time of the

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invention to show a brief textual description of the agent's recommendations, in order to make the recommendation more easily viewable and understandable by the user.

Regarding claim 14, Vamparys and Finseth teach all of that which is discussed above with regards to claim 12. Vamparys does not teach that the reporting means comprises means for playing accompanying audio, which announces the recommendation. Finseth teaches an EPG that announces "Operator A's TV Picks" [Fig. 7]. Through the use of short text and still images or video and audio presentations 128D, Operator A's TV Picks/Recommendations are presented to the user [col. 16, lines 51-54]. It would have been obvious to one of ordinary skill in the art at the time of the invention to present an audio description of the agent's recommendations, in order to make the recommendation more easily viewable and understandable by the user.

5. Claims 3, 10, and 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vamparys (WO 01/15449 A1), cited by examiner, in view of Herz (US 5,758,257), cited by applicant.

Regarding claim 3, the Vamparys reference teaches all of that which is discussed above with regards to claim 1. Vamparys does not teach that the agent is a celebrity. Herz discloses that the user could adopt the viewing preferences and profile of a celebrity and get recommendations about shows based on that celebrity profile [col. 48, line 55 – col. 49, line 6]. It would have been obvious to one of ordinary skill in the art at the time of the invention to use a celebrity as the agent, in order to appeal to people's

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interest in celebrities and their ability to align themselves with celebrity-picked favorite television shows.

Regarding claim 10, the Vamparys reference teaches all of that which is discussed above with regards to claim 8. Vamparys does not teach that the agent is a celebrity. Herz discloses that the user could adopt the viewing preferences and profile of a celebrity and get recommendations about shows based on that celebrity profile [col. 48, line 55 – col. 49, line 6]. It would have been obvious to one of ordinary skill in the art at the time of the invention to use a celebrity as the agent, in order to appeal to people's interest in celebrities and their ability to align themselves with celebrity-picked favorite television shows.

Regarding claim 17, the Vamparys reference teaches the steps of making a recommendation for an item, service, and/or event and reporting the recommendation to the user [Claims 1 and 4, pages 21-22]. The Vamparys reference does not disclose the step of substituting a user profile based on explicit and/or implicit directions of a user with a celebrity profile of a celebrity, nor does he disclose that the aforementioned step of making the recommendation is based on that celebrity profile. Herz discloses a celebrity profile that can be downloaded and used in place of the current user profile in order to recommend programming to the user according to the celebrity profile [col. 48, line 55 – col. 49, line 6]. It would have been obvious to one of ordinary skill in the art at the time of the invention to substitute the user profile with that of a celebrity, in order to appeal to people's interest in celebrity programming choices.

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Regarding claim 18, the Vamparys and Herz references teach all of that which is discussed above with regards to claim 17. Vamparys does not teach that a celebrity profile can be downloaded and used instead of the user profile. Herz discloses that a celebrity profile can be downloaded from an external source and used to suggest programming [col. 48, line 55 – col. 49, line 6]. It would have been obvious to one of ordinary skill in the art at the time of the invention to substitute the user profile with that of a celebrity profile downloaded from an external source, in order to appeal to people's interest in celebrity programming choices.

Regarding claim 19, the Vamparys and Herz references teach all of that which is discussed above with regards to claim 17. The Vamparys reference further discloses reporting the recommendations to the user through an agent [Claim 4, Page 22], Claim 4 declares that "the means for transmitting a list of program recommendations for users to user terminals are compromised in a user agent system".

Regarding claim 20, the Vamparys and Herz references teach all of that which is discussed above with regards to claim 19. Vamparys does not teach that the agent is a celebrity. Herz discloses that the user could adopt the viewing preferences and profile of a celebrity and get recommendations about shows based on that celebrity profile [col. 48, line 55 – col. 49, line 6]. It would have been obvious to one of ordinary skill in the art at the time of the invention to use a celebrity as the agent, in order to appeal to people's interest in celebrities and their ability to align themselves with celebrity-picked favorite television shows.

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6. Claims 21-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vamparys (WO 01/15449 A1), cited by examiner, in view of Herz (US 5,758,257), cited by applicant, in further view of Finseth (US 6,665,870), cited by examiner.

Regarding claim 21, Vamparys and Herz teach all of that which is discussed above with regards to claim 20. Neither Vamparys nor Herz teach that the reporting step comprises displaying a video of the celebrity and playing accompanying audio, which announces the recommendation. Finseth teaches an EPG that announces "Operator A's TV Picks" [Fig. 7]. Through the use of short text and still images or video and audio presentations 128D, Operator A's TV Picks/Recommendations are presented to the user [col. 16, lines 51-54]. It would have been obvious to one of ordinary skill in the art at the time of the invention to utilize the video of the agent (celebrity as taught by Herz) and playing of accompanying audio in order to announce the recommendation, in order to make the recommendation more easily viewable and understandable by the user.

Regarding claim 22, Vamparys and Herz teach all of that which is discussed above with regards to claim 20. Neither Vamparys nor Herz teach that the reporting step comprises a still image of the agent. Finseth teaches an EPG that announces "Operator A's TV Picks" [Fig. 7]. Through the use of short text and still images or video and audio presentations 128D, Operator A's TV Picks/Recommendations are presented to the user [col. 16, lines 51-54]. It would have been obvious to one of ordinary skill in the art at the time of the invention to show a still image of the agent (celebrity as taught

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by Herz) and its recommendations, in order to make the recommendation more easily viewable and understandable by the user.

Regarding claim 23, Vamparys, Herz, and Finseth teach all of that which is discussed above with regards to claim 22. Neither Vamparys nor Herz teach that the reporting step comprises displaying a textual message that announces the recommendation. Finseth teaches an EPG that announces "Operator A's TV Picks" [Fig. 7]. Through the use of short text and still images or video and audio presentations 128D, Operator A's TV Picks/Recommendations are presented to the user [col. 16, lines 51-54]. It would have been obvious to one of ordinary skill in the art at the time of the invention to show a brief textual description of the agent's recommendations, in order to make the recommendation more easily viewable and understandable by the user.

Regarding claim 24, Vamparys, Herz, and Finseth teach all of that which is discussed above with regards to claim 22. Neither Vamparys nor Herz teach that the reporting step comprises playing accompanying audio, which announces the recommendation. Finseth teaches an EPG that announces "Operator A's TV Picks" [Fig. 7]. Through the use of short text and still images or video and audio presentations 128D, Operator A's TV Picks/Recommendations are presented to the user [col. 16, lines 51-54]. It would have been obvious to one of ordinary skill in the art at the time of the invention to present an audio description of the agent's recommendations, in order to make the recommendation more easily viewable and understandable by the user.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Dureau (US 6,513,160) discloses a system for displaying an animated genie for interaction at the user terminal.

Wittig et al (Intelligent Media Agents in Interactive Television Systems) discloses a system for narrowing viewable material through the use of iMA's (intelligent Media Agents).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael R Shannon whose telephone number is 703-305-6955. The examiner can normally be reached on M-F 7:30-5:00, alternate Friday's off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on 703-305-4795. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Michael R Shannon
Examiner
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Michael R. Shannon
January 10, 2005



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